IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Criminal Application Nos.4153, 4154 & 4155 of 2006

M/s.Mahaveer Builders & ors. Applicants
Vs.
Mr.Anil K. Marda & anr. Respondents

Mr.S.V.Pitre and Mr.Mahesh Subramaniam for applicants.

Mr.Sachin Chavan for resp.no.1.

Mr.D.R.More, APP for State.

CORAM: B.H.MARLAPALLE, J.

August 28, 2007.

P.C.

. Heard Mr.Pitre, the learned counsel for the petitioners who are praying for transfer of Criminal Case Nos.925/2006, 927/2006 and 928/2006 presently pending in the Court of the learned Judicial Magistrate, First Class at Solapur to the Court of the learned Judicial Magistrate, First Class at Pune before whom Criminal Complaint No.10166 of 2005 filed by the present respondent no.1 is pending. As the relief prayed for in all the three applications is common, they are heard and are being decided by a common order.

. When Notices in Criminal Revision Application Nos.190, 191 and 192 of 2006 were sought to be served on the present respondent no.1 as issued by the learned Addl. Sessions Judge at Solapur, the bailiff submitted a report stating that the present respondent no.1 who was residing at 39/10, Budhwar Peth, Solapur had left Solapur and has settled down at PUne on the following address:

Vrindavan Apartment, F, 304, Model Colony, Shivaji Nagar, Pune.

. These transfer applications are based on the bailiff's report and with a further prayer that when the respondent no.1 himself has filed a criminal case against the petitioners at Pune, it would be more expedient that the cases at Solapur for dishonour of cheques are transferred and clubbed with the pending case filed before the learned Judicial Magistrate, First Class at Pune. Mr.Pitre, the learned counsel for the petitioners has also invited my attention to the order passed by this Court on 2nd August 2006 in Criminal Writ Petition No.885 of 2006 in which the present respondent no.1 has been impleaded as the respondent no.1 and it is noted in the said order

that the notice issued by this Court was issued on respondent no.1 at Pune. In the affidavit-in-reply filed today in all these applications, the respondent no.1 has not denied that he is not residing at Pune at the above stated address, though he claims that the bailiff's report is not free from suspicion. It is also clear that Criminal Complaint No.10166 of 2005 has been instituted at an earlier point of time before the learned Judicial Magistrate, First Class at Pune and the said case also has been filed under Section 138 of the Negotiable Instruments Act, 1881, like the other three cases instituted before the learned Judicial Magistrate, First Class at Solapur. The dishonoured cheques, which are the subject matter of all the four complaints were drawn over a Bank at Pune and one cheque was sought to be encashed by the respondent no.1 at his Bank account at Pune whereas the rest of the three cheques were sought to be encashed at his Bank account at Solapur.

. I am, therefore, satisfied that if the cases pending at Solapur are transferred to the Court of the learned Judicial Magistrate, First Class at Pune and clubbed with Criminal Complaint No.10166 of 2005, all the cases could be tried expeditiously and there

is nothing to disbelieve that the respondent no.1 is presently residing at Pune. The learned counsel for the respondent no.1 does not deny that the respondent no.1 residing at Pune as well as at Solapur and if that be so, no prejudice is likely to be caused to him if the cases pending at Solapur are transferred to the Court at Pune.

. Hence it is directed that Criminal Case Nos.925/2006, 927/2006 and 928/2006 presently pending before the learned Judicial Magistrate, First Class at Solapur be transferred to the Court of the learned Judicial Magistrate, First Class at Pune and clubbed and heard with Criminal Complaint No.10166 of 2005.

. The applications are disposed off in terms of the above directions.

(B.H.MARL